



04-10-02

2872

EXPRESS MAIL NO.: EL 452 482 882US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Chase *et al.* /

Art Unit: 2872

Serial No.: 09/693,612 /

EXAMINER: Mr. R. D. Shafer

Filed: October 20, 2000 /

Attorney Docket No.: 9840-053-999

For: APPARATUS AND METHOD  
FOR CONTROLLED CANTILEVER  
MOTION THROUGH TORSIONAL  
BEAMS AND A COUNTERWEIGHT

Date: April 8, 2002

#1 Election  
J. Mueller  
4/13/02

**Response to Restriction Requirement**

Assistant Commissioner for Patents  
Washington, D.C. 20231

RECEIVED  
APR 12 2002  
TECHNOLOGY CENTER 2800

Sir:

This communication is responsive to Office Action mailed March 12, 2002.

Remarks

The Office Action of March 12, 2002, imposed a species election requirement among:

- A) The optical micro-electromechanical device being a laser;
- B) The optical micro-electromechanical device being an optical detector;
- C) The optical micro-electromechanical device being an optical filter;
- D) The optical micro-electromechanical device being an optical amplifier; and
- E) The optical micro-electromechanical device being an optical attenuator.

The species election requirement is respectfully traversed. MPEP § 802.02 states that "restriction" is a generic term that includes "election of species." Accordingly, the criteria for restriction between patentably distinct inventions (MPEP § 803.03) apply to both restriction requirements and election of species. The criteria include in pertinent part that "there must be a *serious burden* on the Examiner if restriction is required" (MPEP § 803.03). The Office Action has not indicated how the pending claims, as they relate to the various species, fall in different art classes and thus would constitute a "serious burden" on the Examiner to examine together, as required by MPEP § 803.